

ACT 191

S.B. NO. 2419

A Bill for an Act Relating to Personal Information.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 487J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§487J- Unlawful use of Hawaii identification card or driver’s license.

(a) No business may scan the machine-readable zone of an individual’s Hawaii identification card or driver’s license, except for the following purposes:

- (1) To verify authenticity of the identification card or driver’s license or to verify the identity of the individual if the individual pays for goods or services with a method other than cash, returns an item, or requests a refund or an exchange;

- (2) To verify the individual's age when providing age-restricted goods or services to the individual if there is a reasonable doubt of the individual having reached eighteen years of age or older;
- (3) To prevent fraud or other criminal activity if the individual returns an item or requests a refund or an exchange and the business uses a fraud prevention service company or system. Information collected by scanning an individual's Hawaii identification card or driver's license pursuant to this subsection shall be limited to the following information from the individual:
 - (A) Name;
 - (B) Address;
 - (C) Date of birth; and
 - (D) Driver's license number or identification card number;
- (4) To establish or maintain a contractual relationship. Information collected by scanning the individual's Hawaii identification card or driver's license pursuant to this subsection shall be limited to the following information from the individual:
 - (A) Name;
 - (B) Address;
 - (C) Date of birth; and
 - (D) Driver's license number or identification card number;
- (5) To record, retain, or transmit information as required by state or federal law;
- (6) To transmit information to a consumer reporting agency, financial institution, or debt collector to be used as permitted by the federal Fair Credit Reporting Act, Gramm-Leach-Bliley Act, or the Fair Debt Collection Practices Act; and
- (7) To record, retain, or transmit information by a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Availability Act of 1996.
 - (b) No business shall retain any information obtained pursuant to subsection (a), except as permitted in subsections (a)(3) through (7).
 - (c) No business shall sell or disseminate to a third party any information obtained under this section for any purpose, including marketing, advertising, or promotional activities, except as permitted in subsections (a)(3) through (7).
 - (d) A business covered under this section shall make reasonable efforts, through systems testing and other means, to ensure that the requirements of this chapter are met.
 - (e) Any waiver of a provision of this section is contrary to public policy and is void and unenforceable.
 - (f) For purposes of this section:

"Consumer reporting agency" shall have the same meaning as in the federal Fair Credit Reporting Act, title 15 United States Code section 1681a(f).

"Covered entity" shall have the same meaning as in the security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Availability Act of 1996.

"Debt collector" shall have the same meaning as in the federal Fair Debt Collection Practices Act, title 15 United States Code section 1692a.

"Financial institution" shall have the same meaning as in the federal Gramm-Leach-Bliley Act, title 15 United States Code section 6809."

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SECTION 2. Section 487J-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Scan” or “scanning” means to access the machine-readable zone of an individual’s Hawaii identification card or driver’s license with an electronic device capable of deciphering, in an electronically readable format, information electronically encoded on an individual’s Hawaii identification card or driver’s license.”

SECTION 3. Chapter 487J, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“CHAPTER 487J
~~[SOCIAL SECURITY NUMBER]~~ PERSONAL INFORMATION
PROTECTION”**

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 28, 2012.)

Note

1. Edited pursuant to HRS §23G-16.5.